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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,700	09/28/2001	Steven G. Smith	20009.0248US01(01189)	6438

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EXAMINER

NGUYEN, STEVEN H D

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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06/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/966,700

Applicant(s)

SMITH ET AL.

Examiner

Steven H.D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 7 and 12 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter because the claim just recites a computer readable medium contains a computer executable instructions which is read as a paper, carrier wave signal, instead of a computer readable medium stored a computer executable instructions which executed by a processor or computer.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 8-9 rejected under 35 U.S.C. 102(e) as being McDowell by (US 20020035605).

Regarding claim 8, McDowell discloses a method of receiving data sent from a first computing device (Fig 2, Ref 210) to at least one of a plurality of second computing devices (Fig 7, Ref 731 and 733) over a wireless digital packet switched network (Fig 7, Ref 712) comprising at a protocol server (Fig 2, Ref 136 for receiving IM message from Ref 210, Pages 7-8, Sec 90-

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98), receiving data from a messaging application (WAP IM) running on a computing device over wireless digital packet switched network, while maintaining contact with a remote system accessing application (WAP browser) running on the computing device via the wireless digital packet switched network (Page 3, Sec, 44, the subscriber retrieves information from private database; Page 7-9, Sec 83-98, Page 10, Sec 106); forwarding the data from the messaging application to a messaging server via the protocol server (Fig 2, Ref 210, 136, IM server); determining an intended recipient of the data at the messaging server and forwarding the data from the messaging directly to the intended recipient without transmitting the data through the protocol server (Figs 1 and 7-8, Pages 7-8, the IM message is forwarded to the intended recipient (Fig 7-8, Ref subscriber,) via internet, Sec 90-98 or from 704 via internet 700 to 714, Fig 7).

Regarding claim 9, McDowell discloses at the protocol server (fig 2, Ref 136) receiving a request for legacy data from the remote system accessing application via the wireless digital packet switched network (fig 2, Ref 201-207) and forwarding the request to a remote system (Fig 2, Ref 119 or Fig 7, Ref 741); (Page 3, Sec, 44, the subscriber retrieves information from private database; Page 7-9, Sec 83-98, Page 10, Sec 106)

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-2 and 4-13 rejected under 35 U.S.C. 103(a) as being unpatentable over McDowell (US 20020035605) in view of Doss (US 20020188620)/Parsons (US 20020085701).

Regarding claims 1 and 7-13, McDowell discloses a method and system of sending data from a first computing device (Fig 2, Ref 210) to at least one of a plurality of second computing devices (Fig 7, Subscriber) over a wireless network (Fig 2, Ref 201 and 207) comprising initiating a first application (Web Browser, WAP browser, Page 7, 83 or page 10, 106) on a first computing device (Fig 2, Ref 210) including a wireless interface the first application for accessing and retrieving legacy data from a remote system (Fig 2, Ref 220, 119 or Fig 7, Ref 741) via a protocol server (Fig 2, Ref 136); initiating a second application on the first computing device (Pages 7-8, Sec 90-98, IM application), the second application providing an instant messaging service and enabling instant messaging data to be sent from the first computing device (Fig 2, Ref 210) to an instant messaging server (Fig 1, Ref 116) via the protocol server (Fig 2, Ref 136) over a wireless network (Fig 2, Ref 201-207); generating data to be sent from the first computing device to the at least one of the plurality of second computing devices (Pages 7-8, Sec 90-98 and Web Browser, Page 7, 83 or page 10, 106), wherein data is generated from the first application (3, Sec 44, Page 7, Sec 83 or page 10, Sec 106) as a request from the protocol server (Fig 2, Ref 136) to the remote system (Fig 2, Ref 220, 119 or Fig 7, Ref 741) and from the second application (Pages 7-8, Sec 90-98, WAP IM) as an instant message from the protocol server (Fig 2, ref 136) to the instant message server (Fig 1, Ref 116) and is transmitted by way of the wireless device (Fig 2, Ref 210); and transmitting the generated data from the first computing device to the protocol server for delivery of the request to the legacy system (Web Browser, Page 3, Sec 44, Page 7, Sec 83 or page 10, Sec 106) and for delivery of the instant message to the

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instant messaging server for delivering the message to the second device (Pages 7-8, Sec 90-98) wherein the instant message is delivered to the instant messaging server for further delivery to the at least one of the plurality of second computing devices without transmitting the instant message through the protocol server (Figs 1 and 7-8, Pages 7-8, the IM message is forwarded to the intended recipient (Fig 7-8, Ref subscriber) via internet, Sec 90-98 or from 704 via internet 700 to 714, Fig 7). However, McDowell fails to disclose the instant message can be distributed via LAN such private network and a wireless modem at the client device and access point device in order to initiate a request to a modem controller for access to the wireless digital packet switched modem. In the same field of endeavor, Parsons discloses an office which include LAN which has a plurality of clients for exchanging instant message with a wireless device (See Fig, 1, Lan 108, wireless device 118 using WAP and wireline device 110). However, McDowell and Parsons do not discloses a wireless modem at the client device and access point device in order to initiate a request to a modem controller for access to the wireless digital packet switched modem . In the same field of endeavor, Doss discloses a method and system comprising a plurality of client devices (Fig 2, Ref 10), plurality of application servers (Fig 2, Ref 47-48) and protocol server (Fig 2, Ref 46) for coupling between network (Fig 2, Ref 49) and wireless packet network (Fig 2, Ref 42); the client and access point include a modem for establishing a wireless connection between the client and access point (Pages 3-4, [0031], [0035] and [0037]) wherein the protocol server (Fig 2, Ref 46) transmitting the generated data including the request to the legacy system and the instant message via an X.25 protocol (Page 3, [0035]).

Since, a method and system for using the modems to establish a wireless connection between a client and access point and internet can be a LAN are well known and expected in the

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art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to apply a modem into a device to be use for establishing a wireless connection between the client and access point using x.25 protocol as disclosed by Doss into the method and system of Parsons; then apply these teaching into McDonnel. The motivation would have been to expand the intranet.

Regarding claim 2, McDowell discloses the first application can access a plurality of remote data systems (Web Browser, Page 3, Sec 44, Page 7, Sec 83 or page 10, Sec 106).

Regarding claim 4, McDowell discloses the instant message is addressed to a user represented by a user identifier (Page 9, Table 4).

Regarding claim 5, McDowell and Doss/Parsons fail to disclose user identifier comprises one of a group of allowed recipients the method further comprising detecting at the instant messaging server whether the user identifier is of the group of allowed recipients, and delivering the message to the recipient only when the user identifier is of the allowed group. However, the examiner takes an official notices that a method and system for detecting at the instant messaging server whether the user identifier is of the group of allowed recipients, and delivering the message to the recipient only when the user identifier is of the allowed group is well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to detect the clients that belong to the group of clients that allows to receive the instant message into a method and system of McDowell and Doss in order to prevent the instant message server to delivery an instant message to a correct receiver and provide a security.

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Regarding claim 6, McDowell discloses establishing an interactive connection between the first computing device and the second computing device (Page 8, Sec 99).

Response to Arguments

6. Applicant's arguments filed 4/9/07 have been fully considered but they are not persuasive.
7. The applicant states that McDowell fails to disclose a message application running on the first computer because it only disclose a WAP browser. In reply, McDowell discloses a wireless device includes the WAP applicants (See Page 4, Sec 50) such as WAP IM client application (Page 5, Sec 59 etc...) and WAP browser application (Page 7, 83 etc...) wherein WAP is a wireless application protocol which supports HTML and XML, used to create the applications in the wireless device such as WAP IM client application, WAP browser application, WAP email application, WAP telnet application, wherein WAP IM client application used to exchange message with internet IM users with protocol server by using WAP IM client application (Page 8, Sec 92) and using WAP browser application for accessing the server (Page 10, Sec 106). So, McDowell clearly discloses WAP IM client application and WAP browser application, which are executed on the wireless device.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven H.D Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Welling Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Steven H.D Nguyen
Primary Examiner
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